



**City of Detroit**

**Fourth Quarter Status Report**

**To the**

**Independent Monitor**

For Quarter Ending August 31, 2004

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Mayor, City of Detroit

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Chief of Police  
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## City of Detroit

### Fourth Quarter Status Report

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## I.

## INTRODUCTION

The City of Detroit (City), the Detroit Police Department (DPD) and the United States Department of Justice (DOJ) entered into two Consent Judgments on July 18, 2003, one dealing with *Use of Force, Arrest and Witness Detention* (UOF CJ) and a second regarding *Conditions of Confinement* (COC CJ). This progress report presents the City's continued commitment to achieve compliance with the consent judgments, detailing the City's compliance efforts for the fourth quarter, which began June 1, 2004, and ended August 31, 2004.

The Consent Judgments have been in effect for over one full year. In that time, the City has marshaled its resources in order to present a coordinated approach to the most comprehensive project in its history. This cohesive compliance effort has resulted in a number of policy and procedural innovations to concur with the mandates of both consent judgments, and the needs of the citizens. Of particular note is that the policies that resulted from these innovations are systematically based upon the Constitution of the United States, and in keeping with the best practices available.

The 4<sup>th</sup> Quarter Status Report reflects the DPD's continued progress toward compliance with both consent judgments. The DPD is extremely pleased with the accomplishments made during this quarter. Primarily, the DPD utilized the Policy Review Process, which was discussed in the 3<sup>rd</sup> Quarter Status Report, to revise 10 policies.

Finally, the City filed a motion to extend the COC CJ with Federal District Court Judge Julian A. Cook, Jr. who retains jurisdiction over the consent judgments. The motion was deemed warranted because of the current lack of capital expenditures necessary to finance either the renovations to existing holding cells or the construction of a new detention facility. This motion is presently before Judge Cook and the DOJ has not opposed the motion. (Ruling to be expected on Friday, September 10, 2004.) If granted, this will extend the COC CJ an additional two more years.

**II.****EXECUTIVE SUMMARY**

During the fourth quarter, the City and the DPD have accomplished significant success in satisfying the requirements for paragraphs under review for this quarter. There are a total of 109 paragraphs, of which 70 pertain to the UOF CJ and 39 pertain to the COC CJ. Pursuant to the information delineated in this report, it is the position of DPD that a total of 20 of the UOF CJ paragraphs and 20 of the COC CJ paragraphs have been satisfied. This report will reflect these accomplishments.

PARAGRAPHS REVIEWED DURING THE FOURTH QUARTER	
USE OF FORCE	CONDITIONS OF CONFINEMENT
U-20 through U-33	C-33
U-49 through U-77	C-35 through C-48
U-84 through U-85	C-52 through C-59
U-89 through U-98	C-62 through C-63
U-100 through U-105	C-65 through C78
U-115 through U-123	

**AUDITS**

Paragraphs 94-97 of the UOF CJ and paragraphs 65-71 of the COC CJ require the DPD to conduct quarterly audits to monitor selected police activities and holding cell measures. The City and the DOJ entered into a series of discussions at the City's request to modify the frequency of the audits required by the consent judgments. These discussions eventually resulted in an agreement on August 18, 2004, that the UOF CJ audits and COC CJ audits would be performed annually and bi-annually, respectively. The aforementioned paragraphs of the two consent judgments will be revised accordingly, pursuant to a court order, to reflect these modifications. The City wishes to acknowledge the DOJ's cooperation, as well as the assistance of Hazel DeBurgh and Denise Lewis of the Monitor's staff, in resolving this matter.

**POLICIES**

During the quarter ending August 31, 2004, there were some significant achievements made by the DPD. The continued progress in the area of policy development and revision has resulted in significant progress for the DPD in moving toward the goal of compliance. The following list of policies and their current status are the result of an exhaustive effort on the part of the DPD during this quarter:

POLICIES APPROVED DURING FOURTH QUARTER		
POLICY	STATUS	
Holding Cell Area Directive 305.4	Approved BOPC	5-27-04
Detainee Transportation Directive 305.7	Approved BOPC	6-10-04
Detainee Intake/Assessment Directive 305.1	Approved BOPC	6-24-04
Detainee Suicide Prevention Training Directive 04-05	Approved BOPC	7-01-04
Detainee Property Directive 305.3	Approved BOPC	7-15-04
Detainee Health Care Directive 305.4	Approved BOPC	7-22-04
Search and Seizure Directive 202.2	Approved BOPC	7-22-04
PR-24 Baton Training Directive 04-06	Approved BOPC	7-22-04
Crime Scene Investigation Directive 203.1	Approved BOPC	7-22-04
Code of Conduct Directive 102.3	Approved BOPC	7-22-04
Citizen Complaints Directive 102.6	Approved BOPC	8-05-04

New and revised policies are made accessible via the “Consent Decree” link on the City’s website. Education of the citizenry is being accomplished via the Internet. In addition, the community is able to provide comments to the Board of Police Commissioners (BOPC) via the Internet.

### METHODOLOGIES

The primary monitor, Ms. Sheryl Robinson, initially provided the DPD with draft methodologies for both consent judgments in September 2003. The methodologies advise the DPD on how the monitor will evaluate compliance for each paragraph of the consent judgment; nevertheless, the monitor has stated previously that the methodologies are not meant to provide definitive guidance on compliance. In March 2004, the monitor provided a revised draft of the UOF CJ methodologies, while DPD continued its ongoing compliance efforts. On July 30, 2004, the monitor provided the final version of the UOF CJ methodologies and has indicated that the COC CJ methodologies would be forthcoming. It is imperative that the methodologies be constant so that the City and the DPD will not be subject to additional future tasks resulting from the introduction of “new” methodologies.

It is imperative that the methodologies be constant so that the City and DPD will not be subject to additional future tasks resulting from the introduction of “new” methodologies.

## **PROJECT MANAGEMENT**

The Project Management Office has developed the following deliverables: Project Charter, Scope Statement, Communication Plan, and Project Workbook. It has also developed a common-shared drive for storing all UOF CJ and COC CJ information. These items will play a dominant role in driving the project to successful compliance.

## **TRAINING**

The DPD recognizes that training is a substantial component of the consent decrees, which will require curriculum development and training matrices.

On August 22, 2004, the Curriculum Research and Development function was established within the DPD. This entity will develop a competency-based curriculum that includes specific learning objectives, measurable outcomes and scenario-based lesson plans.

## **TECHNICAL ASSISTANCE**

During the 4th Quarter, the DOJ provided technical assistance to the DPD on two (2) occasions, at no cost to the City. Subject matter experts (SMEs), supplied by the DOJ, met and offered comments and recommendations in the areas of emergency preparedness and fire safety. Conference calls between the City, DPD, and the DOJ attorneys have continued to be mutually beneficial in resolving certain issues. The City and DPD wish to once again extend their appreciation to DOJ attorneys for their efforts.

## **CONDITIONS OF CONFINEMENT**

One area that the DPD is constantly concerned with is the aging infrastructure of some of the precinct buildings and detention areas. In an effort to comply with the COC CJ requirements, the Fourth Precinct was officially closed on July 7, 2004. The precinct boundaries were revised and personnel reassigned, mindful that the same level of police service must be afforded to the citizens and community.

**The Fourth Precinct was  
officially closed on July 7,  
2004.**

**III.****CONDITIONS OF CONFINEMENT  
PROGRESS REPORT****Paragraph C-33****Medical and Mental Health Policies**

The Consent Judgment states: "The DPD shall provide appropriate clothing, such as paper gowns or suicide smocks, to all prisoners placed under suicide precautions."

**Status:** The DPD is currently providing appropriate clothing to all prisoners placed under suicide watch. The Training Division has developed a lesson plan for suicide prevention, including the use of suicide garb. "Detainee Intake and Assessment" Directive 305.1 specifically addresses the issue of providing appropriate clothing to prisoners under suicide precautions.

**Paragraph C-35****Prisoner Safety Policies**

The Consent Judgment states: "The DPD shall ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures."

**Status:** See the status of paragraph C-36.

**Paragraph C-36****Prisoner Safety Policies**

The Consent Judgment states: "The DPD shall develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, the program shall:

- a. establish protocols based upon objective, behavior based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single occupancy cells ; and
- b. require that security screening information is documented and communicated between consecutive shifts."

**Status:** The DPD issued the "Detainee Intake and Assessment" Directive 305.1. The DOJ provided technical assistance regarding the "detainee intake form", which is currently being revised.

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**Paragraph C-37**

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**Prisoner Safety Policies**

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The Consent Judgment states: “The DPD shall develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, these procedures should:

- a. require that cell checks on the general population are performed at least twice per hour and that cell checks on prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and
- b. require detention officers to document relevant information regarding the performance of cell checks in an auditable log.”

**Status:** Administrative procedures ensuring performance and documentation of routine cell checks is delineated in the “Holding Cell Areas” Directive 305.4 and “Detainee Intake/Assessment” Directive 305.1, which have been approved by the DPD and the BOPC. The requirements and the frequency of cell checks and documentation on an auditable log are also contained in the “Detainee Intake and Assessment” Directive 305.1. A standardized auditable log documenting cell checks is being developed by the HCCC.

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**Paragraph C-38**

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**Prisoner Safety Policies**

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The Consent Judgment states: “The DPD shall record in a written policy and implement a procedure that requires detention officers to provide continual direct or on-site remote observation of all observation cells while they are occupied.”

**Status:** The “Detainee Intake/Assessment” Directive 305.1, which, has been approved by the DPD and the BOPC, includes the provisions of this paragraph.

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**Paragraph C-39**

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**Environmental Health and Safety Policies**

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The Consent Judgment states: “The DPD shall ensure that all holding cells are cleaned immediately and thereafter are maintained in a clean and sanitary manner. “

**Status:** The DPD has issued the “Holding Cell Areas” Directive 305.4 which dictates the timely performance of routine maintenance in all holding cells and documentation of maintenance requests and responses. This policy has been approved by the DPD and the BOPC and contains the requirements of this paragraph.

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<b>Paragraph C-40</b>	<b>Environmental Health and Safety Policies</b>
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The Consent Judgment states: "The DPD shall design and implement a cleaning policy for all holding cells. The policy shall require routine cleaning and supervisory inspection of the holding cells and nearby areas."

**Status:** The DPD "Holding Cell Areas" Directive 305.4 delineates the provisions of this paragraph.

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<b>Paragraph C-41</b>	<b>Environmental Health and Safety Policies</b>
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The Consent Judgment mandates that: "The DPD shall design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log."

**Status:** The "Holding Cell Areas" Directive 305.4 was approved by the DPD and the BOPC. The mandates of this paragraph are included in this directive. This policy and the auditable log have been submitted to the monitor for review and approval.

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<b>Paragraph C-42</b>	<b>Environmental Health and Safety Policies</b>
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The Consent Judgment states: "The DPD shall provide adequate heating and ventilation for all buildings containing holding cells."

**Status:** The DPD has commissioned environmental studies that have documented compliance with the ventilation component of this paragraph. It has also been documented that adequate heating is being provided for the facilities that contain holding cells.

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<b>Paragraph C-43</b>	<b>Environmental Health and Safety Policies</b>
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The Consent Judgment states: "The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells."

**Status:** The DPD has maintained compliance with this paragraph since the Second Quarter Status Report.

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**Paragraph C-44**

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**Environmental Health and Safety Policies**

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The Consent Judgment states: "The DPD shall ensure that lighting in all cell block areas is sufficient to reach 20 foot-candles of illumination at desk level and in personal grooming areas."

**Status:** The DPD is conducting a needs assessment to determine the total amount of required upgrades to all holding cells, including all illumination requirements.

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**Paragraph C-45**

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**Environmental Health and Safety Policies**

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The Consent Judgment states: "The DPD shall provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day."

**Status:** The DPD has issued the "Holding Cell Areas" Directive 305.4. This policy has been approved by the DPD and the BOPC. All detainees in DPD holding cells are provided access to toilets and potable water 24 hours a day.

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**Paragraph C-46**

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**Environmental Health and Safety Policies**

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The Consent Judgment states: "The DPD shall ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health standards."

**Status:** The DPD has removed all Hepa-Aire purifiers from all facilities containing Holding Cells and was evaluated as being in compliance with this paragraph during the 2nd quarter.

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**Paragraph C-47**

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**Policies Concerning Persons With Disabilities**

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The Consent Judgment states: "The DPD shall ensure that persons with disabilities are provided with reasonable accommodations."

**Status:** Special Order 03-28 was issued on June 16, 2003, designating the 5<sup>th</sup> and the 6<sup>th</sup> precincts as the primary designated accommodation for detainees that exhibit signs of or claim disabilities. The 11<sup>th</sup> and 12<sup>th</sup> precincts have been designated as the secondary locations. This Special Order was submitted with the Second Quarter Status Report.

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**Paragraph C-48** **Policies Concerning Persons With Disabilities**

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The Consent Judgment states: “The DPD shall develop and implement a policy concerning the detention of individuals with disabilities in consultation with qualified medical and mental health professionals. The policy shall be approved in writing by qualified medical and mental health professionals. Thereafter, the program shall be reviewed and approved in writing by qualified medical and mental health professionals at least every year and prior to any revisions to the program.”

**Status:** The DPD developed the “Detainee Intake/Assessment” Directive 305.1, which has been approved by the DPD and the BOPC. The provisions of this paragraph are included in this policy.

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**Paragraph C-52** **Use of Force and Restraints Policies**

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The Consent Judgment states: “The DPD shall require that any use of force on prisoners in holding cells complies with the DPD’s use of force policies and procedures.”

**Status:** The DPD developed “Holding Cell Areas” Directive 305.4, which has been approved by the DPD and the BOPC. The provisions of this paragraph are included in this directive.

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**Paragraph C-53** **Use of Force and Restraints Policies**

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The Consent Judgment states: “The DPD shall revise and augment its policies regarding prisoners to require that:

- a. officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;
- b. absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and
- c. the supervisor assess the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped.”

**Status:** The “Holding Cell Areas” Directive 305.4 delineates the requirements of this paragraph.

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<b>Paragraph C-54</b>	<b>Use of Force and Restraints Policies</b>
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The Consent Judgment states: “The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.”

**Status:** The DPD has met the requirements of this paragraph with the issuance of the “Holding Cell Areas” Directive 305.4.

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<b>Paragraph C-55</b>	<b>Incident Documentation, Investigation and Review</b>
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The Consent Judgment states: “The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD’s general incident investigation policies.”

**Status:** All aspects of this paragraph are addressed in the “Holding Cell Areas” Directive 305.4.

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<b>Paragraph C-56</b>	<b>Incident Documentation, Investigation and Review</b>
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The Consent Judgment states: “The DPD shall require that all uses of force occurring in DPD holding cells are reported and investigated in compliance with the DPD’s use of force investigation policies.”

**Status:** The requirement that all uses of force occurring in the holding cell area is contained in the “Holding Cell Areas” Directive 305.4.

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<b>Paragraph C-57</b>	<b>Incident Documentation, Investigation and Review</b>
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The Consent Judgment states: “The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD’s prisoner injury investigation policies.”

**Status:** The DPD has complied with this paragraph pursuant to the issuance of the “Holding Cell Areas” Directive 305.4.

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**Paragraph C-58**

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**External Complaints**

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The Consent Judgment states: "The DPD shall ensure that it accepts and processes all external complaints regarding incidents occurring in holding cells consistent with the DPD's external complaint policies."

**Status:** The DPD has revised the "Citizen Complaints" Directive 102.6 and the "Holding Cells Areas" Directive 305.4, to incorporate the mandates of this paragraph.

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**Paragraph C-59**

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**External Complaints**

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The Consent Judgment states: "The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review."

**Status:** The "Citizen Complaints" Directive 102.6 and in "Holding Cell Areas" Directive 305.4 have been approved by the DPD and the BOPC. This paragraph, concerning external complaint process, is included in these directives.

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**Paragraph C-62**

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**Management and Supervision**

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The Consent Judgment states: "The DPD shall routinely evaluate the operation of the holding cells to minimize the risk of harm to staff and prisoners."

**Status:** The DPD established the HCCC, in part, to address this issue. The HCCC's goals are to assure compliance with the provisions of the COC CJ. The evaluation is being conducted by the HCCC through the audit process.

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**Paragraph C-63**

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**Management and Supervision**

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The Consent Judgment states: “The DPD shall operate the holding cells in compliance with the DPD’s comprehensive risk management plan including implementation of:

- a. the risk management database;
- b. the performance evaluation system;
- c. the auditing protocol;
- d. regular and periodic review of all policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD’s liability.”

**Status:** Compliance with the provisions of this paragraph requires a Comprehensive Risk Management Plan, which is still under development.

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**Paragraph C-65**

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**Management and Supervision**

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The Consent Judgment states: “The DPD shall conduct regularly scheduled quarterly audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including:

- a. reviewing a sample of command, IAD, and Homicide Section investigations;
- b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;
- c. evaluating the preservation and analysis of the evidence;
- d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;
- e. evaluating the appropriateness of the investigator’s conclusions; and
- f. issuing a written report regarding the findings of the audit.”

**Status:** The Use of Force audit is scheduled to be conducted during the 5<sup>th</sup> quarter, and an audit report will be prepared at that time.

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**Paragraph C-66**

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**Management and Supervision**

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The Consent Judgment states: “The DPD shall create a Holding cell Compliance Committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with the fire detection, suppression and evacuation program, including:

- a. testing a sample of smoke detectors and sprinklers;
- b. testing the back-up power systems;
- c. reviewing a sample of fire equipment testing and maintenance records; and
- d. issuing a written report regarding the findings of the audit.”

**Status:** The DPD attained partial compliance with this paragraph with the creation of the HCCC on August 13, 2003. The audit has been completed and is being reviewed by the Senior Management Team.

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**Paragraph C-67**

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**Management and Supervision**

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The Consent Judgment states: “The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate emergency preparedness, including:

- a. reviewing a sampling of key and fire equipment maintenance and inventory records;
- b. interviewing selected detention officers about their participation in fire drills and on their responsibilities under the emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and
- c. issuing a written report regarding the findings of the audit.”

**Status:** The HCCC Emergency Preparedness Audit Group performed the tests detailed in the Audit Work Plans, Matrices, and Cribsheets and conducted the necessary fieldwork. The audit has been conducted and the audit report is currently under review by the responsible officials.

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**Paragraph C-68**

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**Management and Supervision**

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The Consent Judgment states: “The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:

- a. reviewing a sampling of hospital referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;
- b. observing intake screening interviews to assess thoroughness;
- c. reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and
- d. issuing a written report regarding the findings of the audit.”

**Status:** The HCCC Medical and Mental Health Audit Group performed the tests detailed in the Work Plans, Matrices, and Cribsheets and conducted the appropriate fieldwork. The audit has been conducted and the audit report is being reviewed by the responsible officials.

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**Paragraph C-69**

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**Management and Supervision**

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The Consent Judgment states: “The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the detainee safety programs and policies, including:

- a. reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;
- b. reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell check logs are receiving supervisory review and written approval; and
- c. issuing a written report regarding the findings of the audit.”

**Status:** The HCCC Detainee Safety Programs and Policies Audit Group performed the tests detailed in the Audit Work Plans, Matrices, and Cribsheets and conducted the required fieldwork. The audit has been conducted and the audit report is currently under review by the responsible officials.

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**Paragraph C-70**

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**Management and Supervision**

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The Consent Judgment states: “The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:

- a. inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks and toilets are operable;
- b. reviewing a sampling of cleaning and maintenance logs to ensure they are properly maintained and reflect the scheduled performance of the requisite cleaning and maintenance tasks;
- c. reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;
- d. observing whether holding cells are free of any potential suicide hazards; and
- e. issuing a written report regarding the findings of the audit.”

**Status:** The HCCC Environmental Health and Safety Audit Group performed the tests detailed in the Audit Work Plans, Matrices, and Cribsheets and conducted the required fieldwork. The audit has been conducted and the audit report is currently being review by the responsible officials.

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**Paragraph C-71**

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**Management and Supervision**

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The Consent Judgment states: “The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the food service program, including:

- a. reviewing a sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;
- b. assuring that food is handled in a sanitary manner; and
- c. issuing a written report regarding the findings of the audit.”

**Status:** The HCCC Food Service Program Audit Group performed the tests detailed in the Audit Work Plans, Matrices, and Cribsheets and conducted the required fieldwork. The audit has been conducted and the audit report is currently under review by the responsible officials.

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**Paragraph C-72**

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**Management and Supervision**

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The Consent Judgment states: “The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.”

**Status:** The six HCCC audits have been conducted and the reports are currently being reviewed by the responsible officials, including the Chief of Police. The Audit Protocol provides that a copy of each audit (after review by the Chief of Police) is provided to the commander of each precinct and specialized unit. Each commander will be required to review the audit and take necessary action pursuant to the findings.

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**Paragraph C-73**

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**Training**

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The Consent Judgment states: “The DPD shall provide comprehensive pre-service and in-service training to all detention officers.”

**Status:** See the status of paragraph C-78.

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**Paragraph C-74**

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**Training**

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The Consent Judgment states: “The DPD shall create and maintain individual training records for all detention officers, documenting the date and topic of all pre-service and in-service training completed for all training completed on or after the effective date of this Agreement.”

**Status:** The Training Division has developed and disseminated a training “sign-in” roster which includes a unique control number, Michigan Identification Training Number (MITN#) for each trainee. The Training Division is entering this information (according to the MITN) in the Michigan Commission on Law Enforcement Standards (MCOLES) database, where pre-service and in-service training completed is retained in individual training records for all detention officers. All training is tracked utilizing the MITN.

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**Paragraph C-75**

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**Training**

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The Consent Judgment states: "The DPD shall provide all detention officers, supervisors of detention officers and members of the Holding Cell Compliance Committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

- a. emergency response plans and notification responsibilities;
- b. fire drills and use of fire extinguishers and other fire suppression equipment;
- c. key control drills and key control policies and procedures; and
- d. responding to emergency situations, including scenarios detention officers likely will experience."

**Status:** See the status of paragraph C-78.

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**Paragraph C-76**

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**Training**

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The Consent Judgment states: "The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in the medical/mental health screening programs and policies. Such training shall include and address the following topics:

- a. prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring;
- b. recording, updating and transferring prisoner health information and medications;
- c. the prescription medication policy, including instructions on the storage, recording and administration of medications; and
- d. examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental/health conditions."

**Status:** See the status of paragraph C-78.

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**Paragraph C-77**

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**Training**

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The Consent Judgment states: “The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in detainee safety programs and policies. Such training shall include and address the following topics:

- a. the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoners;
- b. protocols for performing, documenting and obtaining supervisory review of holding cell checks;
- c. protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and
- d. examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.”

**Status:** See the status of paragraph C-78.

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**Paragraph C-78**

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**Training**

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The Consent Judgment states: “The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in environmental health and safety and hygiene. Such training shall include and address the following topics:

- a. cell block cleaning and maintenance protocols; and
- b. sanitary food preparation and delivery protocols.”

**Status:** The DPD established a Curriculum Research and Development function which will facilitate the development of curriculum, lesson plans, and in-service training programs.

**IV.****USE OF FORCE  
PROGRESS REPORT****Paragraph U-20****Use of Firearms Policy**

The Consent Judgment states: "The DPD shall revise its use of firearms policies to provide that officers must successfully qualify with their department-issued firearm and any other firearm they are authorized to use or carry on-duty on a bi-annual basis, as described in paragraph 113."

**Status:** See the status of paragraph U-23.

**Paragraph U-21****Use of Firearms Policy**

The Consent Judgment states: "Officers who fail to re-qualify shall be relieved of police powers and relinquish immediately all department-issued firearms. Those officers who fail to re-qualify after remedial training within a reasonable time shall be subject to disciplinary action, up to and including a recommendation for termination of employment."

**Status:** See the status of paragraph U-23.

**Paragraph U-22****Use of Firearms Policy**

The Consent Judgment states: "The firearm policy shall prohibit firing at or from a moving vehicle. The policy shall also prohibit officers from intentionally placing themselves in the path of a moving vehicle."

**Status:** Directive 304.2 "Use of Force," prohibits firing at or from a moving vehicle. The directive also states that officers shall not intentionally place themselves in the path of a moving vehicle. The monitor found the DPD in compliance with this paragraph in the Second Quarter Status Report and the DPD continues to be compliant with this paragraph.

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**Paragraph U-23**

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**Use of Firearms Policy**

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The Consent Judgment states: "The DPD shall identify a limited selection of authorized ammunition and prohibit officers from possessing or using unauthorized firearms or ammunition. The DPD shall specify the number of rounds DPD officers shall carry."

**Status:** Paragraphs U-20, U21, and U-23 are incorporated in the revised "Firearms", Directive 304.1. On May 26, 2004 this policy was forwarded to the DOJ for review and comment. On July 13, 2004 the DOJ provided technical assistance and this policy is being revised to comply with the recommendations of the DOJ.

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**Paragraph U-24**

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**Intermediate Force Device Policy**

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The Consent Judgment states: "The DPD shall select an intermediate force device, which is between chemical spray and firearms on the force continuum, that can be carried by officers at all times while on-duty. The DPD shall develop a policy regarding the intermediate force device, incorporate the intermediate force device into the force continuum and train all officers in its use on an annual basis."

**Status:** The DPD is currently developing a schedule to train and equip all officers with the Monadnock PR-24 collapsible baton.

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**Paragraph U-25**

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**Chemical Spray Policy**

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The Consent Judgment states: "The DPD shall revise its chemical spray policy to require officers to:

- a. provide a verbal warning and time to allow the subject to comply prior to the use of chemical spray, unless such warnings would present a danger to the officer or others;
- b. provide an opportunity for decontamination to a sprayed subject within twenty minutes of the application of the spray or apprehension of the subject;
- c. obtain appropriate medical assistance for sprayed subjects when they complain of continued effects after having been de-contaminated or they indicate that they have a pre-existing medical condition (e.g. asthma, emphysema, bronchitis or heart ailment) that may be aggravated by chemical spray and if such signs are observed the subject shall be immediately conveyed to a local hospital for professional medical treatment; and
- d. obtain the approval of a supervisor any time chemical spray is used against a crowd."

**Status:** See the status of paragraph U-26.

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**Paragraph U-26**

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**Chemical Spray Policy**

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The Consent Judgment states: "The DPD shall prohibit officers from using chemical spray on a handcuffed individual in a police vehicle. The DPD shall also prohibit officers from keeping any sprayed subject in a face down position, in order to avoid positional asphyxia."

**Status:** Paragraphs 25 and 26 are incorporated in the "Chemical Spray," Directive 304.3. On July 13, 2004 the DOJ reviewed the policy and provided technical assistance. The policy is being revised pursuant to the DOJ's recommendations.

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**Paragraph U-27**

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**General Investigations of Police Action**

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The Consent Judgment states: "The DPD and the City shall revise their policies regarding the conduct of all investigations to ensure full, thorough and complete investigations. All investigations shall, to the extent reasonably possible, determine whether the officer's conduct was justified and the DPD and the City shall prohibit the closing of an investigation being conducted by the DPD and/or the City simply because a subject or complainant is unavailable unwilling or unable to cooperate, including a refusal to provide medical records or proof of injury."

**Status:** See the status of paragraph U-30.

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**Paragraph U-28**

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**General Investigations of Police Action**

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The Consent Judgment states: "The DPD and the City shall ensure that investigations are conducted by a supervisor who did not authorize, witness or participate in the incident and that all investigations contain;

- a. documentation of the name and badge number of all officers involved in or on the scene during the incident and a canvass of the scene to identify civilian witnesses;
- b. thorough and complete interviews of all witnesses, subject to paragraph 31 below and an effort to resolve material inconsistencies between witness statements.
- c. photographs of the subject's(s') and officer's(s') injuries or alleged injuries; and
- d. documentation of any medical care provided."

**Status:** See the status of paragraph U-30.

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**Paragraph U-29**

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**General Investigations of Police Action**

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The Consent Judgment states: “The DPD and the City shall revise their procedures for all investigatory interviews to require:

- a. officers who witness or are involved in an incident to provide a timely statement regarding the incident (subject to paragraph 31 below);
- b. whenever practicable and appropriate, interviews of complainants and witnesses be conducted at sites and times convenient for them, including at their residences or places of business; and
- c. that all IAD, OCI and Critical Firearm Discharge Investigations shall also include in-person video or audio tape-recorded interviews of all complainants, witnesses, and involved DPD officers and prohibit group interviews. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a signed refusal statement by the complainant/witness.”

**Status:** See the status of paragraph U-30.

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**Paragraph U-30**

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**General Investigations of Police Action**

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The Consent Judgment states: “The DPD and the City procedures for all investigatory interviews shall prohibit:

- a. the use of leading questions that improperly suggest legal justifications for the officer’s(s’) actions when such questions are contrary to appropriate law enforcement techniques; and
- b. the use of interviews via written questions when it is contrary to appropriate law enforcement techniques.”

**Status:** Paragraphs U-27 through U-30 are incorporated in the “Use of Force Reporting” Training Directive 04-07. The DOJ reviewed this policy on August 3, 2004 and provided comments and recommendations. The policy is being revised based on the DOJ’s recommendations.

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**Paragraph U-31**

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**General Investigations of Police Action**

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The Consent Judgment states: "The DPD and the City shall develop a protocol for when statements should (and should not) be compelled pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967)."

**Status:** The Risk Management Bureau developed a preliminary Garrity Protocol which is currently being revised based on an internal review process.

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**Paragraph U-32**

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**General Investigations of Police Action**

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The Consent Judgment states: "The DPD shall revise its policies regarding all investigatory reports and evaluations to require:

- a. a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s') and officer's(s') actions and an evaluation of the initial stop or seizure;
- b. a review of all relevant evidence, including circumstantial, direct and physical evidence;
- c. that the fact that a subject or complainant pled guilty or was found guilty of an offense shall not be considered as evidence of whether a DPD officer engaged in misconduct, nor shall it justify discontinuing the investigation;
- d. reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant;
- e. an evaluation of whether an officer complied with DPD policy;
- f. an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;
- g. all administrative investigations to be evaluated based on a preponderance of the evidence standard;
- h. written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being reassigned; and
- i. any recommended non-disciplinary corrective action or disciplinary action be documented in writing."

**Status:** See the status of paragraph U-33.

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**Paragraph U-33**

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**General Investigations of Police Action**

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The Consent Judgment states: "The DPD shall revise its policies regarding the review of all investigations to require:

- a. investigations to be reviewed by the chain of command above the investigator;
- b. the reviewing supervisors to identify any deficiencies in those investigations and require the investigator to correct any deficiencies within seven days of the submission of the report and evaluation to the reviewing supervisor;
- c. the reviewing supervisors to recommend and the final reviewing authority to refer any incident with training, policy or procedural implications to the appropriate DPD unit;
- d. appropriate non-disciplinary corrective action and/or disciplinary action when an investigator fails to conduct or reviewing supervisor fails to evaluate an investigation appropriately; and
- e. a written explanation by any supervisor, including the Chief of Police, who disagrees with a finding or departs from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure."

**Status:** Paragraphs 32 and 33 are incorporated in the "Use of Force Reporting" Training Directive 04-07. On August 3, 2004, the DOJ provided technical assistance and this policy was returned to the Risk Management Bureau for revision, based on the DOJ's recommendations.

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**Paragraph U-49**

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**Prompt Judicial Review Policies**

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The consent judgment states: "The DPD shall revise its policies to require prompt judicial review, as defined in this Agreement, for every person arrested by the DPD. The DPD shall develop a timely and systematic process for all arrestees to be presented for prompt judicial review or to be released."

**Status:** The "Arrest" Directive 202.1 has been approved by the DPD and BOPC, and the requirements of this paragraph are included.

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**Paragraph U-50**

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**Prompt Judicial Review Policies**

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The consent judgment states: "The DPD shall require that, for each arrestee, a warrant request for arraignment on the charges underlying the arrest is submitted to the prosecutor's office within 24 hours of arrest."

**Status:** The "Arrest" Directive 202.1 and delineates all provisions of this paragraph.

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**Paragraph U-51**

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**Prompt Judicial Review Policies**

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The consent judgment states: "The DPD shall document on an auditable form all instances in which the request for an arraignment warrant is submitted more than 24 hours after the arrest. The DPD shall also document on an auditable form all instances in which it is not in compliance with the prompt judicial review policy and in which extraordinary circumstances delayed the arraignment. The documentation shall occur by the end of the shift in which there was:

- 1) a failure to request an arraignment warrant within 24 hours,
- 2) a failure to comply with the prompt judicial review policy, or
- 3) an arraignment delayed because of extraordinary circumstances."

**Status:** The "Arrest" Directive 202.1 has been approved by the DPD and BOPC. The standardized auditable form required by this paragraph has been developed and forwarded to the monitor for technical assistance, review and comment.

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**Paragraph U-52**

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**Hold Policies**

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The Consent Judgment states: "The DPD shall revise the hold policies to define a hold as that term is defined in this Agreement and require that all holds be documented. The policy shall establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or the setting and posting of bond where applicable. The fact that an arrestee has not been arraigned or charged on the current arrest shall not delay this process."

**Status:** See the status of paragraph U-53.

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**Paragraph U-53**

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**Hold Policies**

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The Consent Judgment states: "The DPD shall document all holds, including the time each hold was identified and the time each hold was cleared. The DPD shall document on an auditable form each instance in which a hold is not processed within twenty-four hours on a daily basis."

**Status:** Paragraphs 52 and 53 are incorporated in the "Detainee Registration" Directive 305.2. The directive has been revised and is in the review process.

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**Paragraph U-54**

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**Restriction Policies**

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The Consent Judgment states: “The DPD shall develop a policy regarding restricting detainee’s access to telephone calls and visitors that permits individuals in DPD custody access to attorneys and reasonable access to telephone calls and visitors.”

**Status:** The “Holding Cell Areas” Directive 305.4 has been approved by the DPD and the BOPC, and delineates the DPD’s detainee restrictions policy specifically relating to detainee access to attorneys, visitors and telephone calls.

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**Paragraph U-55**

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**Restriction Policies**

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The Consent Judgment states: “The DPD shall require that such restrictions be documented and reviewed at the time the restriction is issued and reevaluated each day in which the restriction remains in effect. The DPD shall document on an auditable form any violation of the restriction policy by the end of the shift in which the violation occurred.”

**Status:** Provisions of this paragraph are incorporated in the “Holding Cell Areas” Directive 305.4 bringing the DPD into partial compliance. The C.R.I.B. Audit Team is in the process of revising standardized auditable form UF-008 pursuant to a letter of technical assistance from the monitor.

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**Paragraph U-56**

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**Material Witness Policies**

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The Consent Judgment states: “The DPD shall revise its material witness policies to define material witness as that term is defined in this Agreement and remove the term “police witness” from DPD policies and procedures.”

**Status:** The “Arrest” Directive 202.1 and Confinement of Material Witness Training Directive 04-01 were approved by the DPD and the BOPC on April 29, 2004 and include the definition of a “material witness” as defined in this agreement. All “police witness” terminology has been removed from all pertinent DPD policy and procedure directives.

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**Paragraph U-57**

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**Material Witness Policies**

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The Consent Judgment states: "The DPD shall obtain a court order prior to taking a material witness into DPD custody. The DPD shall document on an auditable form the detention of each material witness and attach a copy of the court order authorizing the detention."

**Status:** The "Arrest" Directive 202.1 and Confinement of Material Witness Training Directive 04-01 delineates that a court order must be obtained prior to taking a material witness into DPD custody, which brings the DPD into partial compliance. The DOJ has recommended certain changes to the auditable form, therefore, the CRIB Audit Team is currently developing a new standardized auditable form that incorporates those changes.

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**Paragraph U-58**

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**Documentation of Custodial Detention**

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The Consent Judgment states: "The DPD shall revise its arrest and detention documentation to require, for all arrests, a record or file to contain accurate and auditable documentation of:

- a. the individual's personal information;
- b. the crime(s) charged;
- c. the time and date of arrest and release;
- d. the time and date the arraignment warrant was submitted;
- e. the name and badge number of the officer who submitted the arraignment warrant;
- f. the time and date of arraignment;
- g. the time and date each warrant was lodged and cleared, if applicable; and
- h. the individual's custodial status, e.g., new arrest, material witness or extradition."

**Status:** The mandates of this paragraph are incorporated in the "Detainee Registration" Directive 305.2. This policy and the auditable forms are currently being revised.

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**Paragraph U-59**

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**Command Notification**

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The Consent Judgment states: “The DPD shall require the commander of the precinct and, if applicable, of the specialized unit to review in writing all reported violations of DPD arrest, investigatory stop and frisk, witness identification and questioning policies and all reports of arrests in which an arraignment warrant was not sought. The commander's review shall be completed within 7 days of receiving the document reporting the event. The commander's review shall include an evaluation of the actions taken to correct the violation and whether corrective or non-disciplinary action was taken.

**Status:** See the status for paragraph U-60.

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**Paragraph U-60**

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**Command Notification**

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The Consent Judgment states: “The DPD shall require the commander of the precinct and, if applicable, of the specialized unit to review in writing all violations of DPD prompt judicial review, holds, restrictions and material witness policies on a daily basis. The commander's review shall include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.”

**Status:** The requirements of paragraphs 59 and 60 are incorporated in the “Arrests” Directive 202.1-7, Reviewing Arrests. The DOJ made specific recommendations for revisions to the commander's 7 day and weekly reviews, which are currently being addressed.

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**Paragraph U-61**

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**External Complaints**

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The Consent Judgment states: “The DPD and City shall revise their external complaint policy to clearly delineate the roles and responsibilities of OCI and the DPD regarding the receipt, investigation and review of external complaints. At a minimum, the plan shall specify each agency's responsibility for receiving, recording, investigating and tracking complaints; each agency's responsibility for conducting community outreach and education regarding complaints; how, when and in what fashion the agencies shall exchange information, including complaint referrals and information about sustained complaints.”

**Status:** The “Citizen Complaints” Directive 102.6 was approved by the DPD and the BOPC on August 5, 2004. This directive contains all of the provisions of paragraph U-61.

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**Paragraph U-62**

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**External Complaints**

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The Consent Judgment states: "The DPD and the City shall develop and implement an informational campaign regarding external complaints, including:

- a. informing persons that they may file complaints regarding the performance of any DPD employee;
- b. distributing complaint forms, fact sheets and informational posters at City Hall, OCI, all DPD precincts, libraries, on the internet and, upon request, to community groups and community centers;
- c. broadcasting public service announcements that describe the complaint process; and
- d. posting permanently a placard describing the complaint process, with relevant phone numbers, in the lobby of each DPD precinct."

**Status:** The DPD has revised the "Citizen Complaints" Directive 102.6 to include that persons may file complaints regarding the performance of any DPD employee. In addition, the DPD has distributed complaint forms, informational posters and placards to all precincts, City Halls, and the OCI. Furthermore, the DPD has created a Public Service Announcement campaign, which airs locally on Comcast channel 10.

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**Paragraph U-63**

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**External Complaints**

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The Consent Judgment states: "The DPD shall require all officers to carry informational brochures and contact forms in their vehicles at all times while on duty. The DPD shall develop a contact form within 60 days of the effective date of this Agreement. The contact form shall be submitted for review and approval of the DOJ. The DPD shall implement the contact form within 60 days of the review and approval of the DOJ. The DPD shall require all officers to inform an individual of his or her right to make a complaint, if an individual objects to an officer's conduct. The DPD shall prohibit officers from discouraging any person from making a complaint or refusing to take a complaint."

**Status:** The informational brochure was forwarded to the DOJ on May 17 2004. The DOJ returned the brochure June 23, 2004, for additional revisions. The revisions were completed and the informational brochure was returned to the DOJ on August 10, 2004. The DPD is currently awaiting a reply from the DOJ.

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**Paragraph U-64**

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**Intake and Tracking**

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The Consent Judgment states: "The DPD and the City shall revise their policies regarding the intake and tracking of external complaints to define complaint and misconduct as those terms are defined in this Agreement and require all officers and OCI employees to accept and document all complaints filed in writing or verbally, in person or by mail, telephone (or TDD), facsimile or electronic mail."

**Status:** The "Citizen Complaints" Directive 102.6 was approved by the DPD and the BOPC on August 5, 2004. This directive contains all of the provisions on paragraphs U-64.

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**Paragraph U-65**

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**Intake and Tracking**

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The Consent Judgment states: "The DPD and the City shall permit the intake officer or employee to include a factual account and/or description of a complainant's demeanor and physical condition but not an opinion regarding the complainant's mental competency or veracity."

**Status:** This policy will be revised to include the provisions of this paragraph.

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**Paragraph U-66**

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**Intake and Tracking**

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The Consent Judgment states: "The DPD and the City shall assign all complaints a unique identifier, which shall be provided to the complainant, and a description of the basis for the complaint (e.g., excessive force, discourtesy or improper search)."

**Status:** The DPD complaint process is that each form is assigned a preprinted unique identifying number to all complaints. This number is provided to the citizen who is making the complaint. Therefore, the Monitor found the DPD in compliance with the mandates of this paragraph in the Third Quarter Status Report. The DPD maintains compliance with this paragraph.

The Consent Judgment states: “The DPD and the City shall revise its policies regarding external complaint investigations to:

- a. provide that all complaints shall be referred for investigation and resolution by OCI or, if the complaint alleges potentially criminal conduct by an officer, by IAD;
- b. permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;
- c. refer all complaints to the appropriate agency within five business days of their receipt;
- d. require that the complainant shall be periodically kept informed regarding the status of the investigation;
- e. develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;
- f. implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;
- g. require IAD and OCI to complete all investigations within 60 days of receiving the complaint; and
- h. require that, upon completion of the investigation, the complainant shall be notified of its outcome, including an appropriate statement regarding whether any non-disciplinary corrective action or disciplinary action was taken.”

**Status:** The “Citizen Complaints” Directive 102.6 was approved by the DPD and the BOPC on August 5, 2004. This directive contains provisions of subsections a, b, d, g, and h. Subsections c, e and f are part of the Use of Force Investigations Policy which is being reviewed by the DOJ.

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**Paragraph U-68**

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**External Complaint Investigation**

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The Consent Judgment states: “The DPD and the City shall review and evaluate the external complaint review process to require:

- a. the Chief Investigator or his or her designee to complete review of OCI investigations within 7 days of completion of the supervisor's review;
- b. the BPC to complete review of OCI investigations within 45 days of completion of the Chief Investigator's review; and
- c. the DPD or his or her designee to complete his or her review of external complaints within 7 days of completion of the BPC's review.”

**Status:** The “Citizen Complaints” Directive 102.6 was approved by the DPD and the BOPC on August 5, 2004. This directive contains all of the provisions of paragraph U-68.

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**Paragraph U-69**

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**External Complaint Investigation**

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The Consent Judgment states: “In addition to the investigatory report and evaluation requirements, each allegation in an administrative external complaint investigation shall be resolved by making one of the following dispositions:

- a. “Unfounded,” where the investigation revealed no facts to support that the incident complained of actually occurred;
- b. “Sustained,” where a preponderance of the evidence shows that the alleged conduct did occur and the actions of the officer violated DPD policies, procedures or training;
- c. “Not Sustained,” where there are insufficient facts to decide whether the alleged misconduct occurred; and
- d. “Exonerated,” where a preponderance of the evidence shows that the alleged conduct did occur but did not violate DPD policies, procedures or training.”

**Status:** The “Citizen Complaints” Directive 102.6 was approved by the DPD and the BOPC on August 5, 2004. This directive contains all of the provisions of paragraph U-69.

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**Paragraph U-70**

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**General Policies**

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The Consent Judgment states: "In developing and revising the policies discussed in this Agreement, the DPD shall ensure that all terms are clearly defined."

**Status:** The DPD has researched to ensure that all terms used in the revised policies are clearly defined.

**Note:** It should be noted that the DPD and the DOJ have differing interpretations regarding the definition of *Probable Cause*:

**DOJ DEFINITION-** *The term "probable cause" means a reasonable belief that an individual has committed, is committing, or is about to commit an offense.*

**DPD DEFINITION-** *"Probable Cause exists where the facts and circumstances within (the arresting officer's) knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed" and the person to be arrested committed it.*

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**Paragraph U-71**

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**General Policies**

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The Consent Judgment states: "The DPD shall continue to make available proposed policy revisions to the community, for their review, comment and education. Such policy revisions shall also be published on the DPD's website to allow comments to be provided directly to the DPD."

**Status:** The Monitor acknowledged that the DPD has established a website for the posting policies in the First Quarter Status Report. Subsequently, the DPD designated BPOC as the entity with the departmental responsibility for receiving, reviewing and responding to citizen comments.

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**Paragraph U-72**

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**General Policies**

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The Consent Judgment states: "The DPD shall advise all officers, including supervisors, that taking police action in violation of DPD policy shall subject officers to discipline, possible criminal prosecution, and/or civil liability."

**Status:** The "Code of Conduct" Directive 102.3, which has been approved by the DPD and the BOPC, advises all officers including supervisors that any police action taken in violation of DPD policy shall subject officers to discipline, possible criminal prosecution, and/or civil liability.

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**Paragraph U-73**

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**General Policies**

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The Consent Judgment states: "The DPD and the City shall develop a plan for ensuring regular field deployment of an adequate number of supervisors of patrol units and specialized units that deploy in the field to implement the provisions of this agreement."

**Status:** In the Third Quarter Status Report the monitor found that the DPD was not in compliance with this paragraph due to a misinterpretation of the Homicide Section's daily detail. Clarification regarding the Homicide Section's daily detail was provided to the monitor that substantiates DPD policy which, ensures a regular field deployment of an adequate number of supervisors in both patrol and specialized units.

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**Paragraph U-74**

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**General Policies**

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The Consent Judgment states: "The DPD shall enforce its policies requiring all DPD officers to report any misconduct committed by another DPD officer, whether committed on-duty or off-duty."

**Status:** See the status of paragraph U-75.

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**Paragraph U-75**

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**General Policies**

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The Consent Judgment states, "The DPD shall revise its policies regarding off-duty officers taking police action to:

- a. provide that off-duty officers shall notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;
- b. prohibit off-duty officers from carrying or using firearms or taking police action in situations where an officer's performance may be impaired or the officer's ability to take objective action may be compromised; and
- c. provide that, if it appears the officer has consumed alcohol or is otherwise impaired, the officer shall submit to field sobriety, breathalyzer, and/or blood tests."

**Status:** Paragraphs U74 and U75 are addressed in "Firearms" Directive 304.1, "Arrest" Directive 202.1 and partially in "Code of Conduct" Directive 102.3. The "Firearms" Directive was forwarded to the DOJ on May 26, 2004 for review by the DOJ. On July 13, 2004 the DOJ provided technical assistance and this policy is currently being revised pursuant to the DOJ recommendations.

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**Paragraph U-76**

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**General Policies**

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The Consent Judgment states: "The DPD shall revise its policies regarding prisoners to:

- a. require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;
- b. require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and
- c. prohibit arresting and transporting officers from accompanying prisoners into the holding cell area."

**Status:** The DPD has developed the "Holding Cell Areas" Directive 305.4; "Use of Force" Directive 304.2; and, "Detainee Transportation" Directive 305.7 to address the mandates of this paragraph. On August 19, 2004, the DOJ provided technical assistance and review on the directive concerning "Detainee Transportation," and the policy is currently being revised to incorporate the recommended changes.

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**Paragraph U-77**

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**General Policies**

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The Consent Judgment states: "The DPD shall develop a foot pursuit policy to:

- a. require officers to consider particular factors in determining whether a foot pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location (e.g. lighting and officer familiarity), whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;
- b. emphasize alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;
- c. emphasize the danger of pursuing and engaging a subject with a firearm in hand; and
- d. require officers to document all foot pursuits that involve a use of force on a separate, auditable form, such as the use of force report."

**Status:** The DPD's "Foot Pursuit" Directive 202.7, was developed utilizing the International Association of Chiefs of Police's (IACP) model policy and established best police practices as a template. The DPD has initiated extensive discussion on this issue. However, to date, no resolution has been reached.

The Consent Judgment states: “The DPD shall prepare, for the review and approval of the DOJ, a Review Protocol for using the risk management database that addresses data analysis, supervisory assessment, supervisory intervention, documentation and auditing. The Review Protocol shall require:

- a. that when an officer or group of officers pass a threshold established in the Report Protocol the officer’s(s) supervisor shall review all information in the risk management database regarding the officer(s) together with other relevant information;
- b. the reviewing supervisor to document whether he or she took non-disciplinary action or recommended disciplinary action, the basis for this decision, and what corrective action was taken, if any;
- c. supervisors to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual officer and unit activity for at-risk behavior;
- d. precinct and unit commanders to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual supervisor’s assessment and analysis of information in the risk management database and the corrective action taken by supervisors;
- e. appropriate DPD supervisors to review and evaluate, on a regular basis but not less than quarterly, police performance citywide, using all relevant information from the risk management database and other relevant information and to evaluate and make appropriate comparisons regarding the performance of all DPD units in order to identify any significant patterns or series of incidents;
- f. commanders and supervisors conducting such periodic reviews to take non-disciplinary corrective action when appropriate for individual officers, supervisors or units and document any such action in writing;
- g. that the information in the database be accessible to commanders, supervisors and the BPC;
- h. that the information in the database is considered when evaluating a DPD employee for transfer or promotion;
- i. commanders and supervisors to promptly review records of all officers recently transferred to their sections and units;
- j. commanders and supervisors to be evaluated on their ability to use the risk management database to enhance effectiveness and reduce risk;
- k. that a designated DPD unit be responsible for managing and administering the database, including conducting quarterly audits of the system to ensure action is taken according to the process described above; and
- l. that aggregated information from the risk management database be shared on a regular and periodic basis with training and policy planning staff.”

**Status:** The Review Protocol was developed and submitted to the DOJ on July 6, 2004. After receiving technical assistance from the DOJ, the DPD is currently revising Review Protocol based on their recommendations.

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**Paragraph U-85**

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**Risk Management Database**

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The Consent Judgment states: “The DPD shall seek to ensure that the risk management database is created as expeditiously as possible. As part of this effort, the DPD, in consultation with the DOJ, shall organize the risk management database into modules in developing the Data Input Plan, the Report Protocol, the Review Protocol and the Request for Proposals and in negotiating with contractors, such that difficulties with one aspect of the risk management database do not delay implementation of other modules.”

**Status:** On July 6, 2004, the Data Input Plan, Report Protocol and Request for Proposal were submitted to the DOJ for review and approval. On July 13, 2004 and August 31, 2004 the DOJ provided technical assistance. All three plans are being revised to meet the requirements of the DOJ.

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**Paragraph U-89**

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**Risk Management Database**

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The Consent Judgment states: “Prior to implementation of the new risk management database, the DPD shall develop an interim system to identify patterns of conduct by DPD officers or groups of officers. The interim system shall require periodic reviews of relevant information, but no less than monthly, and evaluations of whether an officer or group of officers is engaging in at risk behavior. This interim system shall collect and analyze the following information: citizen complaint reports and investigations; use of force investigations; shootings; vehicle chases; injured prisoner investigations; traffic collisions; canisters of chemical spray issued to officers; firearms qualifications; training; prompt judicial review; disciplinary action; arrest without probable cause; all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion; and all reports regarding interviews, interrogations or conveyances in violation of DPD policy in a format that facilitates entry into the final risk management database, to the fullest extent possible.”

**Status:** On August 25, 2004 the DOJ provided technical assistance regarding the “Interim Management Awareness System” (IMAS). Upon completion of recommended changes by the DOJ, the IMAS will be re-submitted as part of a complete package along with the “Data Input Plan,” “Report Protocol,” “Review Protocol” and the RFP.

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**Paragraph U-90**

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**Risk Management Database**

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The Consent Judgment states: “Following the initial implementation of the risk management database, and as experience and the availability of new technology may warrant, the DPD may propose to subtract or modify data tables and fields, modify the list of documents scanned or electronically attached, and subtract or modify standardized reports and queries. The DPD shall submit all such proposals for review and approval by the DOJ before implementation.”

**Status:** The risk management database, including procedures for review, revision and approval, is still under development.

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**Paragraph U-91**

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**Performance Evaluation System**

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The Consent Judgment states: “The DPD shall ensure that performance evaluations for all DPD employees occur at least annually and include, but are not limited to, consideration of the following:

- a. civil rights integrity;
- b. adherence to law, including performing duties in a manner consistent with the requirements of the Fourth and Fifth Amendments to the Constitution and the Civil Rights laws of the United States; and
- c. supervisor’s performance in identifying and addressing at-risk behavior in subordinates, including their supervision and review of use of force, arrests, care of prisoners, prisoner processing, and performance bearing upon honesty and integrity.”

**Status:** The Performance Evaluation Forms are currently being revised. Upon completion, the changes will be presented to the individual bargaining units pursuant to their collective bargaining agreements.

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**Paragraph U-92**

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**Oversight**

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The Consent Judgment states: “The DPD shall develop a protocol for conducting audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands.”

**Status:** The Audit Protocol has been developed and forwarded to the monitor as an attachment with the Second Quarter Status. In an addition, during the month of May 2004, the CRIB audit team conducted a two-day training session on the audit protocol for various personnel involved in the audit process.

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**Paragraph U-93****Oversight**

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The Consent Judgment states: "The DPD shall issue a report to the Chief of Police on the result of each audit and examine whether there is consistency throughout the DPD. The DPD shall also provide the reports to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action."

**Status:** The audit reports will be submitted to the precinct and specialized unit commanders after the reports have been reviewed and approved.

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**Paragraph U-94****Oversight**

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The Consent Judgment states: "The DPD shall conduct regularly scheduled quarterly audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a sample of command, IAD, and Homicide Section investigations, evaluating whether the actions of the officer and the subject were captured correctly in the investigative report, and evaluating the preservation and analysis of the evidence and the appropriateness of the investigator's conclusions."

**Status:** The use of force, prisoner injuries, and allegations of misconduct audits will be conducted in the 6th quarter.

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**Paragraph U-95****Oversight**

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The Consent Judgment states: "The DPD shall conduct regularly scheduled quarterly audits covering all precincts and specialized units that review a sample of findings of probable cause, stop and frisk reports and witness identification and questioning documentation. The audits shall include evaluating the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The audits shall include a comparison of the number of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause."

**Status:** The DPD has conducted the probable cause and the stop and frisk audits. These audits are currently being reviewed by the senior management team. The witness identification and questioning documentation audit will be conducted in the 5th quarter.

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**Paragraph U-96**

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**Oversight**

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The Consent Judgment states: "The DPD shall conduct regularly scheduled quarterly audits covering all precincts and specialized units that examine custodial detention practices. The audits shall include reviewing the length of detention between arrest and arraignment and the time to adjudicate holds."

**Status:** The custodial detention audit has been conducted and the report is being reviewed by the responsible officials.

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**Paragraph U-97**

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**Oversight**

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The Consent Judgment states: "The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled quarterly audits that examine external complaints and complaint investigations. The audit shall include reviewing a sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action."

**Status:** The OCI external audit will be conducted during the 5th quarter.

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**Paragraph U-98**

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**Oversight**

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The Consent Judgment states: "The DPD shall conduct and document periodic random reviews of scout car camera videotapes for training and integrity purposes. In addition, the DPD shall require periodic random surveys of scout car video recording equipment to confirm that it is in proper working order."

**Status:** See the status of paragraph U-102.

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**Paragraph U-100**

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**Use of Video Cameras**

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The Consent Judgment states: "The DPD shall repair or replace all non-functioning video cameras."

**Status:** Currently, no backlog of video equipment awaiting repair exists. Non-functioning video equipment is serviced as damage and/or defects are reported.

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**Paragraph U-101**

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**Use of Video Cameras**

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The Consent Judgment states: "The DPD policy on video cameras shall be revised and augmented to require:

- a. activation of scout car video cameras at all times the officer is on patrol;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated."

**Status:** See the status of paragraph U-102.

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**Paragraph U-102**

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**Use of Video Cameras**

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The Consent Judgment states: "The DPD policy on video cameras shall require officers to record all motor vehicle stops, consents to search a vehicle, deployments of a drug-detection canine, or vehicle searches."

**Status:** The DPD is in the process of upgrading to a digital video capture system which records to a server, eliminating the use of videotapes every precinct. Uniform policies and procedures for random review utilizing the *Insight Digital Video System* are being developed and field tested.

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**Paragraph U-103**

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**Discipline**

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The Consent Judgment states: "The City shall ensure that adequate resources are provided to eliminate the backlog of disciplinary cases and that all disciplinary matters are resolved as soon as reasonably possible."

**Status:** The DPD has developed a "pre-disciplinary" review board, which evaluates disciplinary cases in order to identify those matters appropriate for plea disposition.

In January of 2004, the number of outstanding or backlogged cases totaled 544, which included both current and previous year disciplinary cases pending a hearing date. As of June 30, 2004, based upon the "pre-disciplinary" review board's review, there were only 280 disciplinary cases pending. This amounts to a 62% reduction in the number of disciplinary cases over a six-month period. The actions taken by the DPD has significantly reduced the backlog of disciplinary cases to a manageable number and has facilitated the disposition of disciplinary matters within a timely manner.

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**Paragraph U-104**

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**Discipline**

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The Consent Judgment states: "The DPD shall schedule disciplinary hearings, trials, and appeals at appropriately frequent intervals, to prevent a disciplinary backlog from developing. As part of determining how often to schedule such hearings, the DPD shall establish guidelines dictating the maximum period of time that should elapse between each stage of the disciplinary process."

**Status:** A Pre-Disciplinary Board and upgrades of the Disciplinary Administration Unit to a Section have been implemented. These measures will assist in the elimination of any backlogs in the system. Policy delineating guidelines regarding the maximum period of time that should be allowed to elapse between each step in the disciplinary process are currently under development.

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**Paragraph U-105**

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**Discipline**

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The Consent Judgment states: "The DPD shall create a disciplinary matrix that:

- a. establishes a presumptive range of discipline for each type of rule violation;
- b. increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules;
- c. requires that any departure from the presumptive range of discipline must be justified in writing;
- d. provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and
- e. provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed."

**Status:** The Disciplinary Matrix has been developed and was forwarded to the City's Law Department for review and comment. The matrix was returned to Disciplinary Section on August 26, 2004 for additional revisions.

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**Paragraph U-115**

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**Custodial Detention Training**

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The Consent Judgment states: "The DPD shall provide all DPD recruits, officers and supervisor with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignment, holds, restrictions, material witness and detention records."

**Status:** The DPD established a Curriculum Research and Development entity that is responsible for the development of curriculum, lesson plans, and in-service training programs. The Training Division is developing the appropriate annual custodial detention training.

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**Paragraph U-116**

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**Custodial Detention Training**

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The Consent Judgment states: "The DPD shall advise officers that the DPD arraignment policy shall not be delayed because of the assignment of the investigation to a specialized unit, the arrest charge(s), the availability of an investigator, the gathering of additional evidence or obtaining a confession."

**Status:** See the status of paragraph U-117.

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**Paragraph U-117**

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**Custodial Detention Training**

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The Consent Judgment states: "The DPD shall advise officers that whether an individual is a material witness and whether that material witness should be committed to custody is a judicial determination."

**Status:** The "Arrest" Directive 202.1 was approved by the DPD and the BOPC. This policy was sent to the monitor and the DOJ. On June 25, 2004 the monitor replied by letter recommending changes in the required auditable form. The CRIB Audit Team is currently developing a new auditable form that incorporates the recommended changes.

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**Paragraph U-118**

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**Supervisory Training**

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The Consent Judgment states: "The DPD shall provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer."

**Status:** The Training Division is continuing a "best practices" comparison study as it pertains to training supervisors in the appropriate evaluation of written reports. The DPD has established the Curriculum Research and Development entity. Revised policies will be forwarded to this section in order to facilitate the development of lesson plans and curriculum.

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**Paragraph U-119**

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**Supervisory Training**

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The Consent Judgment states: "DPD supervisors shall receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training."

**Status:** Sergeants and Lieutenants "Leadership Development" courses were developed and sent to the monitor for review. Additional lesson plans are currently under development by the Training Division.

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**Paragraph U-120**

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**Supervisory Training**

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The Consent Judgment states: "The DPD shall provide training on risk assessment and risk management to all DPD supervisors, including the operation of the risk management database."

**Status:** The Risk Management Database is currently under development. The curriculum for training will be based upon the approved plan and procedures.

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**Paragraph U-121**

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**Investigator Training**

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The Consent Judgment states: "The DPD shall provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate."

**Status:** See the status of paragraph U-122.

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**Paragraph U-122**

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**Investigator Training**

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The Consent Judgment states: "The DPD shall provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD shall provide training on the DPD external complaint process, including the role of OCI and IAD in the process, to all new recruits and as part of annual in-service training."

**Status:** The investigative training curriculum is being developed to include the provisions of paragraphs U-121 and U-122.

The Consent Judgment states: “The DPD shall develop, subject to DOJ approval, a protocol to enhance the FTO program within 120 days of the effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.”

**Status:** The DOJ has provided an analysis of the current system and recommendations for improvement. The Training Bureau is revising the current department protocol based on this analysis.